

STATE OF HAWAII  
DEPARTMENT OF LAND AND NATURAL RESOURCES  
Land Division  
Honolulu, Hawaii 96813

January 8, 2010

Board of Land and Natural Resources  
State of Hawaii  
Honolulu, Hawaii

PSF No.:09MD-152

Maui

Cancellation of Right-of-Entry Permit to Shell Wind Energy Inc. and Re-issuance of a Right-of-Entry Permit to Auwahi Wind Energy, LLC, for Access Purposes, Kanahena, Maluaka, Mooloa, Honuaula, Makawao, Maui, Tax Map Key:(2) 2-1-004:049 and (2) 2-1-005: 034, 055 and 077.

PURPOSE:

To perform environmental and technical due diligence studies associated with the proposed development of a wind generated energy facility and related infrastructure.

APPLICANT:

Auwahi Wind Energy, LLC. a Delaware Limited Liability Company.

LEGAL REFERENCE:

Sections 171-55 Hawaii Revised Statutes as amended.

LOCATION:

Portion of Government lands of Kanahena, Maluaka, Mooloa, Honuaula, Makawao, Maui, identified by Tax Map Key: (2) 2-1-004:049 and (2) 2-1-005: 034, 055 and 077, as shown on the attached maps labeled Exhibit (A), (B) and (C).

AREA:

50 acres, more or less.

ZONING:

State Land Use District: Agricultural  
County of Maui CZO: Agricultural

TRUST LAND STATUS:

Section 5(b) lands of the Hawaii Admission Act

DHHL 30% entitlement lands pursuant to the Hawaii State  
Constitution: YES ☐ NO ☒

CURRENT USE STATUS:

The subject areas are encumbered by the following dispositions:

Parcel (2) 2-1-004:049	None
Parcel (2) 2-1-005:034	LOD# 28078, Maui Electric Co., Utility LOD# 28122, Maui Electric Co., Utility
Parcel (2) 2-1-005:055	None
Parcel (2) 2-1-005:077	LOD# 27721, Maui Electric Co., Utility LOD# 27350, Hertz, Access & Utility LOD# 28839, Kravitt, Access & Utility

CHARACTER OF USE:

Temporary access purposes.

TERM OF RIGHT-OF-ENTRY:

This Right-of-Entry shall commence upon receipt by the Department of a copy of this permit signed by Auwahi Wind Energy, LLC, agreeing to its terms and conditions, and shall expire upon completion of its due diligence for a wind generated electrical facility.

CONSIDERATION:

Gratis.

CHAPTER 343 - ENVIRONMENTAL ASSESSMENT:

In accordance with the "Division of Land Management's Environmental Impact Statement Exemption List", approved by the Environmental Council and dated April 28, 1986, the subject request is exempt from the preparation of an environmental assessment pursuant to Exemption Class No. 5, Item No. 1 that states "Permission to enter State lands for the purpose of basic data collection, research, experimental management and resources evaluation activities such as archaeological survey, topographic survey, test borings for soil test, ground cover survey inspection of property for appraisal and development feasibility study purposes."

DCCA VERIFICATION:

Place of business registration confirmed:	YES	<u>x</u>	NO	_____
Registered business name confirmed:	YES	<u>x</u>	NO	_____
Applicant in good standing confirmed:	YES	<u>x</u>	NO	_____

REMARKS:

The Maui District Land Office received an application on November 12, 2009, from Agent Mitch Dmohowski acting on behalf of the applicant, Auwahi Wind Energy, LLC. Auwahi Wind Energy LLC, is requesting a Right-of-Entry Permit to enter onto State lands at

Kanahena, Maluaka, Mooloa, Honuaula, Makawao, Maui, Tax Map Key:(2) 2-1-004:049 and (2) 2-1-005: 034, 055 and 077. The purpose of the Right-of-Entry is for temporary access purposes to perform environmental and technical due diligence studies associated with the proposed development of a wind generated energy facility and related infrastructure. Activities may include, but are no limited to archaeological surveys, flora and fauna surveys, geotechnical surveys, road surveys, topographical surveys, and other surveys, reports, or studies required to submit applications to Federal, State and local agencies for the proposed wind generated energy facility. The initial studies and evaluation of the area for the proposed project is expected to take up to two (2) years from the date of inception.

Auwahi Wind Energy, LLC, is currently working with Ulupalakua Ranch and has obtained permission to enter onto their property to conduct the previously described surveys.

No comments were solicited for this request. The requested use for the area will not include the erection of any structures as it is for preliminary testing and access purposes.

Staff is of the understanding that no entity involved intends to profit monetarily from its use of this permit, therefore, meets requirements for a waiver of rent.

Note that prior to this request by Auwahi Wind Energy LLC., Shell Wind Energy Inc. had obtained a right-of-entry permit from the State for the same purposes at the subject location. Via letter dated November 23, 2009, David Veach, Business Development Manager of Shell Wind Energy Inc. submitted a request to terminate their right-of-entry permit as they sold their interest in the wind energy project to Auwahi Wind Energy LLC. (Exhibit D). Therefore, the right-of-entry permit to Shell Wind Energy, Inc. shall be considered cancelled as of the date of request.

RECOMMENDATION:

That the Board,

1. Authorize cancellation of the right-of-entry permit issued to Shell Wind Energy, Inc. dated November 29, 2007;
2. Authorize the Chairperson to waive the rent for use of State lands for temporary access purposes;
3. Authorize the issuance of a right-of-entry permit to Auwahi Wind Energy LLC. covering the subject area under the terms and conditions cited above, which are by this reference incorporated herein and further subject to the following:
  - A. The standard terms and conditions of the most current right-of-entry permit form, as may be amended from time to time;
  - B. Such other terms and conditions as may be prescribed by the

Chairperson to best serve the interests of the State.

4. Authorize the Chairperson to issue future right-of-entries to the Applicant in relation to providing access and due diligence testing for its wind energy generating project.

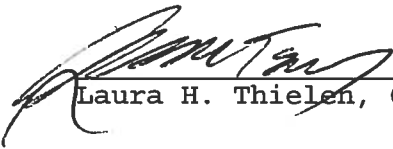
Respectfully Submitted,



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Larry Pacheco  
Land Agent

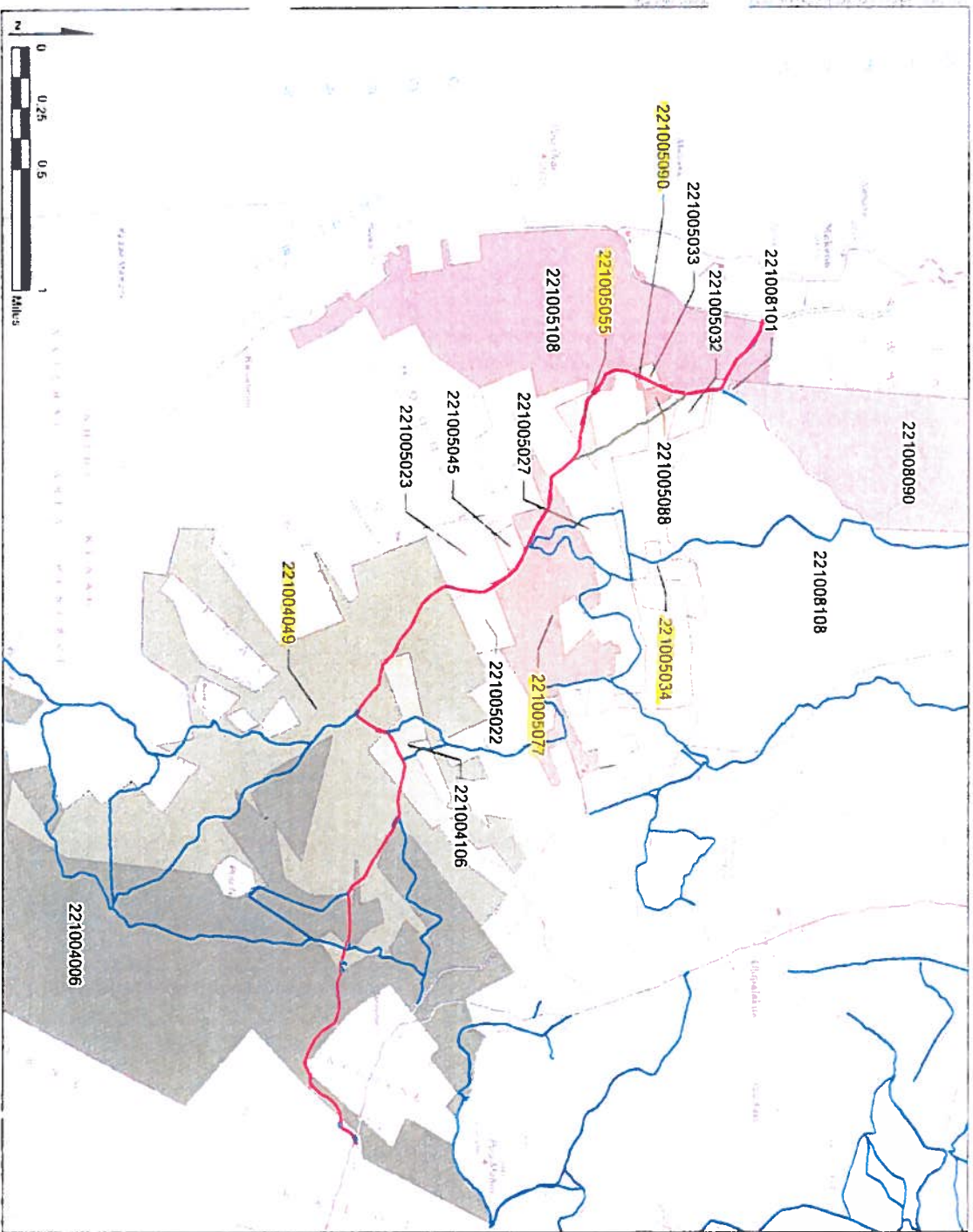
APPROVED FOR SUBMITTAL:



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Laura H. Thielen, Chairperson





**Legend**

Papaka Road  
Pasture Roads

**TMK**

- 221004006
- 221004049
- 221004106
- 221005022
- 221005023
- 221005027
- 221005032
- 221005033
- 221005034
- 221005045
- 221005055
- 221005077
- 221005088
- 221005090
- 221005108
- 221008090
- 221008101
- 221008108
- 221008999

Note: The location of the transmission line route was approximated based on existing project maps.

**TMK Information Along Papaka Road**  
 Auwahi Wind Energy Project  
 Shell Wind Energy  
 Ulupalapua Ranch, Maui



FOR MALIUKA, MOHOPUL, MOOKI, MUKO, MOOKI, NAL, HONULULU, AKAHU, MAUI

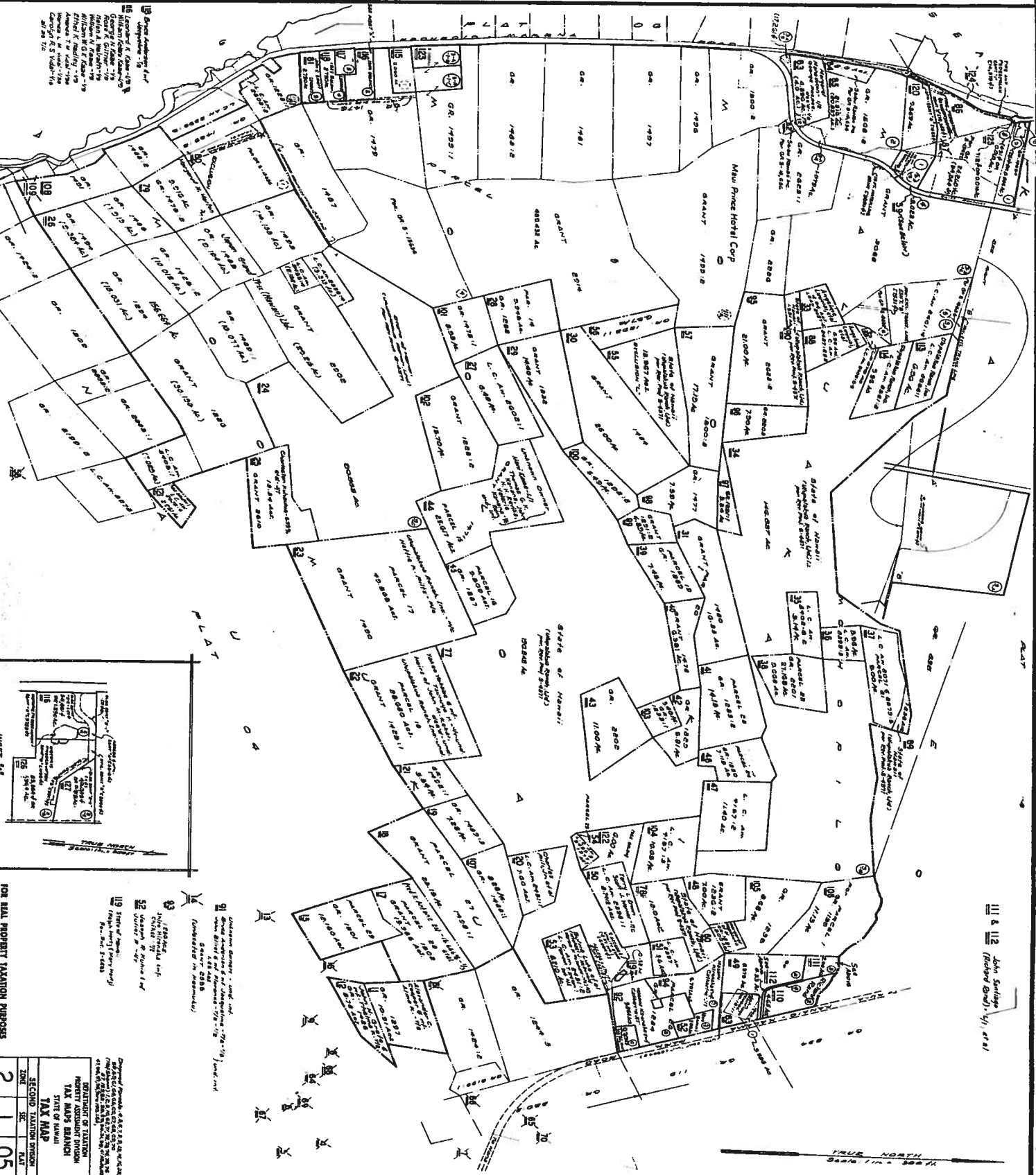


EXHIBIT "C"



FILED  
MAUI DISTRICT  
LAND DIVISION

2009 NOV 30 PM 12:46

Daniel L. Ornellas  
Department of Land and Natural Resources  
Land Division – Maui District  
STATE OFFICE BUILDING  
54 South High Street, Room 101  
Wailuku, Maui, HI 96793-2198

**Shell WindEnergy Inc.**  
One Shell Plaza  
910 Louisiana St.  
Houston, TX 77002  
USA  
Internet [www.shell.com/wind](http://www.shell.com/wind)

November 23, 2009

RE: Shell WindEnergy Inc. Termination of Right of Entry Permit

Dear Mr. Ornellas:

As discussed previously, Shell WindEnergy Inc. (SWE) has sold its interest in the Auwahi Wind Farm project on land owned by Ulupalakua Ranch, Inc. The purpose of this letter is to inform you of SWE's desire to terminate the subject Right of Entry Permit, a copy of which is attached.

Sincerely,  
Shell WindEnergy Inc.

David Veach  
Business Development Manager

Attachment

**EXHIBIT "D"**